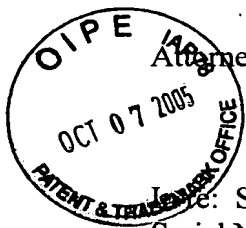


DAC  
ZTW



Attorney Docket No. 9099-2IP

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Scarantino et al.

Conf. No.: 1156

Serial No.: 10/089,483

Group: 3736

Filing Date: September 17, 2002

Examiner: Michael C. Astorino

For: **METHODS, COMPUTER PROGRAM PRODUCTS, AND DEVICES FOR  
CALIBRATING CHRONICALLY TISSUE IMPLANTED SENSORS USING  
CHRONICALLY TISSUE IMPLANTED GENERATING ELECTRODES**

Date: October 5, 2005

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR SUSPENSION OF 37 C.F.R. §§ 1.48 and 1.63  
UNDER 37 C.F.R. § 1.183

Sir:

The Applicants hereby request and/or petition under 37 CFR § 1.183 for the suspension of the signature requirements for Mr. Stefan Ufer under 37 C.F.R. § 1.47 as Mr. Ufer has refused to sign the necessary papers such that the designation of inventorship in the above-identified patent application can be amended as requested in the concurrently filed Request for Correction of Inventorship under 37 C.F.R. § 1.48. Evidence in support of the suspension of rules is provided herein.

Applicants and Applicants' representative have been trying to resolve the inventorship of the above referenced application since early 2002. An inventorship investigation by Applicants' representative, Elizabeth A. Stanek, resulted in the addition of Stefan Ufer, Jason Fiering and Bahram Ghaffarzadeh Kermani. Mr. Ufer, Mr. Fiering and Mr. Kermani concurred that they should be named as inventors on the above referenced application. Mr. Fiering and Mr. Kermani signed documents to implement the correction of the inventorship. Mr. Ufer has refused to sign these documents.

In particular, Applicants' representative has forwarded the documents necessary to correct inventorship in the above referenced mater to Mr. Ufer for his signature on multiple occasions. An Assignment, a Declaration and a statement pursuant to 37 C.F.R. § 1.48 were forwarded to Mr. Ufer via Federal Express on June 24, 2004. See Letter from Elizabeth A. Stanek to Mr. Ufer on 6/24/04 at TAB A. Even though Mr. Ufer is an employee of North Carolina State University (NCSU) and under an obligation to assign to NCSU, the signed documents were not signed and returned by Mr. Ufer. Applicants' representative, Elizabeth

10/11/2005 TBESH/H1 00000006 10089483 400.00 OP  
01 FC:1462

In re: Scarantino et al.  
Serial No. 10/089,483  
Filed: September 17, 2002  
Page 2

A. Stanek, attempted to contact Mr. Ufer by telephone and email several times, but the documents were still not signed and returned. Finally, on November 5, 2004, the Assignment, Declaration and statement pursuant to 37 C.F.R. § 1.48 were again forwarded to Mr. Ufer for his signature. In the letter forwarding the documents, Mr. Ufer was warned that if he did not return the signed documents, Applicants' representative would proceed with changing the inventorship using procedures directed to dealing with an uncooperative inventor. See Letter from Elizabeth A. Stanek to Mr. Ufer on 11/5/04 at TAB B.

Accordingly, Applicants respectfully submit that a *bona fide* attempt was made to obtain Mr. Ufer's signature on the Assignment, Declaration and statement pursuant to 37 C.F.R. § 1.48 so as to obtain correction of inventorship in the above referenced matter. In fact, Mr. Ufer expressly refused to sign the documents presented to him for signature, even though he agreed that he should be named as an inventor on the above referenced application. Thus, Applicants respectfully request that a suspension of the necessary rules be granted so the proper inventorship may be on file in the above referenced application.

The petition fee in the amount of \$400.00 as required by 37 CFR 1.17(f) is included herein. Any additional fees or refunds associated with this transaction may be charged or overpayment credited to our Deposit Account No. 50-0220.

Respectfully submitted,



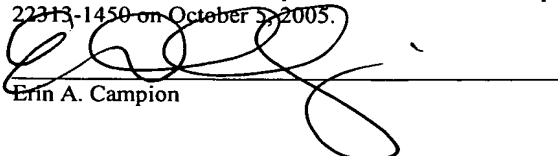
Elizabeth A. Stanek  
Registration No. 48,568  
Attorney for Applicants

**Customer No. 20792**

Myers Bigel Sibley & Sajovec, P.A.  
Post Office Box 37428  
Raleigh, NC 27627  
Tel (919) 854-1400  
Fax (919) 854-1401

**Certificate of Mailing under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 5, 2005.

  
Erin A. Campion

# MYERS E. GEL SIBLEY & SAJOVEC, P.A.

## PATENT LAWYERS

Jarett K. Abramson  
D. Randal Ayers  
David D. Beatty  
Mitchell S. Bigel  
Needham J. Boddie, II  
Lynne A. Borchers  
James R. Cannon  
Anna R. Carr

Robert N. Crouse  
Robert W. Glatz  
Scott C. Hatfield  
Devin R. Jensen  
Laura M. Kelley  
Shawna C. Lemon, Ph.D.  
Karen A. Magri, Ph.D.  
Robert M. Meeks

Mary L. Miller, Ph.D.\*1  
D. Scott Moore  
James D. Myers  
Timothy J. O'Sullivan  
David K. Purks  
Julie H. Richardson  
Rohan G. Sabapathypillai  
F. Michael Sajovec

Grant J. Scott  
Kenneth D. Sibley  
Elizabeth A. Stanek  
Richard P. Vitek  
Karen L. Wade, Ph.D.\*2

June 24, 2004

*Via Federal Express*

Mr. Stefan Ufer  
North Carolina State University  
Campus Box 7911  
Raleigh, NC 27695-7911

Ref: 9099-2  
Dept:

Date: 24JUN04 SHIPPING \$11.25  
Wgt: 1 LBS SPECIAL \$0.68  
HANDLING \$0.00  
TOTAL \$11.93

SERVICE: STANDARD OVERNIGHT  
TRACK: 6018 7719 8865

Re: Inventorship: 9099-2 Family of Patents and Applications  
Our Ref. Nos.: 9099-2, 2DV, 2IP, 2CT and 2CT2

Dear Mr. Ufer:

As you know we have been working on resolving the inventorship of the above-referenced patent and applications for several years now. Attached hereto is a memorandum that memorializes our investigation that resulted in the presently named inventorship. To implement the necessary changes, enclosed herewith are documents related to one or more of the above-referenced matters for your signature. Please sign the enclosed documents and return them to my attention by **July 1, 2004** using the enclosed Federal Express label. We appreciate your assistance with this matter. We recommend that you keep a signed copy for your records.

Please let us know if you have any questions.

Best regards.

Sincerely,



Elizabeth A. Stanek

Enclosure

cc: Julie H. Richardson, Esq. (w/o enc.)  
Sandy Mitofsky (w/o enc.)  
Robert D. Black, Ph.D. (w/o enc.)

**MYERS BIGEL SIBLEY & SAJOVEC, P.A.**  
**PATENT LAWYERS**

Jarett K. Abramson	Robert N. Crouse	Mary L. Miller, Ph.D.* <sup>1</sup>	Grant J. Scott
D. Randal Ayers	Robert W. Glatz	D. Scott Moore	Kenneth D. Sibley
David D. Beatty	Scott C. Hatfield	James D. Myers	Elizabeth A. Stanek
Mitchell S. Bigel	Devin R. Jensen	Timothy J. O'Sullivan	Richard P. Vitek
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James R. Cannon	Karen A. Magri, Ph.D.	Rohan G. Sabapathypillai	
Anna R. Carr	Robert M. Meeks	F. Michael Sajovec	

November 5, 2004

Mr. Stefan Ufer  
North Carolina State University  
Campus Box 7911  
Raleigh, NC 27695-7911

Re: Inventorship: 9099-2 Family of Patents and Applications  
Our Ref. Nos.: 9099-2IP

Dear Mr. Ufer:

Despite our repeated telephone and email messages to you on this topic and our prior letter of June 24, 2004, we have not received the documents that were sent to you to implement the necessary changes to inventorship in the above referenced application. Accordingly, we are reforwarding to you with this letter documents related to adding you as an inventor in the above-referenced application for your signature. Thus, please sign the three enclosed documents where indicated and return them to my attention by December 1, 2004 using the enclosed Federal Express label. We appreciate your assistance with this matter. We recommend that you keep a signed copy for your records.

**Please note that if we do not receive the signed documents by December 1, 2004, we will proceed with changing the inventorship in the above referenced application using procedures directed to dealing with an uncooperative inventor.**

Please let us know if you have any questions.

Best regards.

Sincerely,



Elizabeth A. Stanek

Enclosure

cc: Sandy Mitofsky (w/o enc.)  
Robert D. Black, Ph.D. (w/o enc.)  
H. Troy Nagle, Ph.D. (w/o enc.)

Mailing Address:  
PO Box 37428  
Raleigh, NC 27627

P: (919) 854-1400  
F: (919) 854-1401  
Int'l: + 1 919 854 1400

Street Address:  
4140 Parklake Ave.  
Suite 600  
Raleigh, NC 27612

[www.myersbigel.com](http://www.myersbigel.com)

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